IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7499 OF 2004

1. Smt Indrayani Madhukar Vanjare
and ors. .. Petitioners

Vs

1. Mr Harikumar Radheshyam Dubey
and anr. .. Respondents

Mr A.H.Palekar, for the petitioners.

Ms S.M.Dandekar, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 23rd December, 2004.

PC:

1. Heard the learned counsel for the parties.

2. The petitioners have impugned the order dated 9.8.2004 rejecting the applications Exhibits 14,15 and 16 filed by all the three petitioners for setting aside "No.W.S." order passed by the trial Court holding that the time for filing of the written statement cannot be extended beyond a period of 90 days as contemplated under Order 8, Rule 1 of the Code of Civil Procedure. It is clear that the judgment of this Court in **Shailaja A.Sawant Vs Sayajirao Banpatrao Patil, 2004 (2) Mh.L.J.419** which has been upheld by the Division Bench in **Chintaman Sukhdeo Kaklij and Ors Vs. Shivaji**

Bhausaheb Gadhe and Ors in Writ Petition No.2847 of 2004 decided on 12/13th August,2004, was not considered by the learned Judge while passing the impugned order. Keeping that in view, in my opinion, the appropriate course would be to direct the learned trial Judge to consider the applications filed by all the three petitioners, bearing Exhibits 14,15 and 16, afresh in the light of the observations made by this Court in the judgments aforestated. Order accordingly.

3. Needless to state that the trial Court shall decide these applications afresh after giving an opportunity of being heard to the parties in the suit. In view of this, the impugned order is set aside. With these observations, the writ petition is disposed of.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)